

REMARKS

Claims 2-25 and 33-35 are pending herein.

No claims are hereby cancelled.

Claims 5,7,11,14,19, and 23-25 are hereby amended.

In connection with the amendments, Applicant submits the following remarks:

1. Oath/Declaration: Applicant herewith submits a new oath/declaration and power of attorney, having the proper title.

2. Specification: Applicant thanks the Examiner for his patience with Applicant's prior attempt to respond to the specification concerns. Applicant herewith amends the claims, as necessary, to overcome the various rejections in the manner previously intended.

3. Claims 5-9, 11-13, 19, and 23-25 were rejected under 35 USC 112, second paragraph: Applicant herein amends Claims 5, 7, 11, 14, and 23-25 to correct the dependency. Applicant has amended Claim 19 to change the words, per the Examiner's requirements.

4. Claims 2-11, 15-22, 24, 25 and 33-35 were rejected under 35 USC 103(a) over EBAY in view of Prince and Claims 12-14 and 23 were rejected under 35 USC 103(a) over EBAY in view of Prince and Himmel: Applicant herewith submits his declaration to show that Applicant's date of reduction to practice (i.e., at least as early as April 9, 1999) precedes the dates of the Prince reference (i.e., the publication dates of the copyright registration of Prince lists April 21, 1999 as the earliest publication date). Applicant's reduction to practice, as shown in the figures to the Application, show the

inventions claimed by Applicant and were in existence and publicly available prior to April 9, 1999 (e.g., the date of a press release by Applicant announcing availability of Applicant's website). Applicant acknowledges that the Examiner states that the EBAY website reference was searched at Wayback Machine and derived from web pages archived on 25 January 1999. However, Applicant submits that those web pages do not show the elements of Applicant's claimed inventions.

Particularly, as addressed in Applicant's prior responses in the prosecution, Applicant submits that EBAY did not have any notification elements (as claimed in Applicant's amended claims) as of the reference date. Prince, first published in April 21, 1999, purportedly describes certain notification mechanisms – but the date of Prince is after Applicant's press release and public availability of Applicant's website incorporating the claimed inventions.

Applicant submits that his claimed inventions precede the references and requests withdrawal of the rejections.

CONCLUSION

Applicant's inventions of the amended claims precede the reference dates.


Applicant's declaration attests to facts showing the priority.

Reconsideration and withdrawal of the objections and rejections, and allowance of all pending claims, is respectfully requested.

Should this response be considered inadequate or non-responsive for any reason, or should the Examiner have any questions, comments or suggestions that would expedite the prosecution of the present case to allowance, Applicants' undersigned representative earnestly requests a telephone conference at (512) 477-3830.

Please charge any excess fees or credit any overpayment to Deposit Account No. 50-1350.

Respectfully submitted,


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